

**ASSEMBLY BILL**

**No. 1718**

**Introduced by Assembly Member Mountjoy**

February 22, 2005

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An act to amend Section 51182 of the Government Code, and to amend Section 4291 of the Public Resources Code, relating to forestry and fire protection.

LEGISLATIVE COUNSEL'S DIGEST

AB 1718, as introduced, Mountjoy. Forestry and fire prevention: screens.

(1) Existing law requires any person who owns, leases, controls, operates, or maintains any occupied dwelling or occupied structure in, upon, or adjoining any mountainous area, forest-covered land, brush-covered land, grass-covered land, or any land that is covered with flammable material, which area or land is within a very high fire hazard severity zone designated by a local agency, to take specified actions to prevent fires including, among other things, providing and maintaining at all times a screen over the outlet of every chimney or stovepipe that is attached to any fireplace, stove, or other device that burns any solid or liquid fuel.

Existing law also requires that a person that owns, leases, controls, operates, or maintains a building or structure in, upon, or adjoining any mountainous area, forest-covered lands, brush-covered lands, grass-covered lands, or any land that is covered with flammable material, take specified actions to prevent fires, including, among other things, providing and maintaining a screen over the outlet of every chimney or stovepipe that is attached to a fireplace, stove, or other device that burns any solid or liquid fuel, and requires that the

screen be constructed of nonflammable material with openings of not more than 1/2 inch.

This bill would revise those provisions to require that the screen be a noncombustible, corrosion-resistant screen with a mesh size no greater than 1/4 inch covering the attic and subfloor vents, and over the outlet of every chimney or stovepipe that is attached to a fireplace, stove, or other device that burns any solid or liquid fuel. Because a violation of these provisions would constitute a crime under others existing provisions, the bill would create a state-mandated local program by changing the definition of a crime.

(2) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority. Appropriation: no. Fiscal committee: yes.  
State-mandated local program: yes.

*The people of the State of California do enact as follows:*

1 SECTION 1. Section 51182 of the Government Code is  
2 amended to read:

3 51182. (a) Any person who owns, leases, controls, operates,  
4 or maintains any occupied dwelling or occupied structure in,  
5 upon, or adjoining any mountainous area, forest-covered land,  
6 brush-covered land, grass-covered land, or any land that is  
7 covered with flammable material, which area or land is within a  
8 very high fire hazard severity zone designated by the local  
9 agency pursuant to Section 51179, shall at all times do all of the  
10 following:

11 (1) Maintain around and adjacent to the occupied dwelling or  
12 occupied structure a firebreak made by removing and clearing  
13 away, for a distance of not less than 30 feet on each side thereof  
14 or to the property line, whichever is nearer, all flammable  
15 vegetation or other combustible growth. This paragraph does not  
16 apply to single specimens of trees, ornamental shrubbery, or  
17 similar plants that are used as ground cover, if they do not form a  
18 means of rapidly transmitting fire from the native growth to any  
19 dwelling or structure.

(2) Maintain around and adjacent to the occupied dwelling or occupied structure additional fire protection or firebreaks made by removing all brush, flammable vegetation, or combustible growth that is located within 100 feet from the occupied dwelling or occupied structure or to the property line, or at a greater distance if required by state law, or local ordinance, rule, or regulation. This section does not prevent an insurance company that insures an occupied dwelling or occupied structure from requiring the owner of the dwelling or structure to maintain a firebreak of more than 100 feet around the dwelling or structure if a hazardous condition warrants such a firebreak of a greater distance. Grass and other vegetation located more than 30 feet from the dwelling or structure and less than 18 inches in height above the ground may be maintained where necessary to stabilize the soil and prevent erosion.

(3) Remove that portion of any tree that extends within 10 feet of the outlet of any chimney or stovepipe.

(4) Maintain any tree adjacent to or overhanging any building free of dead or dying wood.

(5) Maintain the roof of any structure free of leaves, needles, or other dead vegetative growth.

(6) Provide and maintain at all times a *noncombustible, corrosion-resistant screen with a mesh size no greater than one-fourth inch covering the attic and subfloor vents, and over the outlet of every chimney or stovepipe that is attached to any fireplace, stove, or other device that burns any solid or liquid fuel. The screen shall be constructed and installed in accordance with the California Building Standards Code.*

(7) Prior to constructing a new dwelling or structure that will be occupied or rebuilding an occupied dwelling or occupied structure damaged by a fire in such zone, the construction or rebuilding of which requires a building permit, the owner shall obtain a certification from the local building official that the dwelling or structure, as proposed to be built, complies with all applicable state and local building standards, including those described in subdivision (b) of Section 51189, and shall provide a copy of the certification, upon request, to the insurer providing course of construction insurance coverage for the building or structure. Upon completion of the construction or rebuilding, the owner shall obtain from the local building official, a copy of the

1 final inspection report that demonstrates that the dwelling or  
2 structure was constructed in compliance with all applicable state  
3 and local building standards, including those described in  
4 subdivision (b) of Section 51189, and shall provide a copy of the  
5 report, upon request, to the property insurance carrier that insures  
6 the dwelling or structure.

7 (b) A person is not required under this section to maintain any  
8 clearing on any land if that person does not have the legal right to  
9 maintain the clearing, nor is any person required to enter upon or  
10 to damage property that is owned by any other person without the  
11 consent of the owner of the property.

12 SEC. 2. Section 4291 of the Public Resources Code is  
13 amended to read:

14 4291. A person that owns, leases, controls, operates, or  
15 maintains a building or structure in, upon, or adjoining any  
16 mountainous area, forest-covered lands, brush-covered lands,  
17 grass-covered lands, or any land that is covered with flammable  
18 material, shall at all times do all of the following:

19 (a) Maintain around and adjacent to the building or structure a  
20 firebreak made by removing and clearing away, for a distance of  
21 not less than 30 feet on each side of the building or structure or to  
22 the property line, whichever is nearer, all flammable vegetation  
23 or other combustible growth. This subdivision does not apply to  
24 single specimens of trees, ornamental shrubbery, or similar plants  
25 that are used as ground cover, if they do not form a means of  
26 rapidly transmitting fire from the native growth to any building  
27 or structure.

28 (b) Maintain around and adjacent to the building or structure  
29 additional fire protection or firebreak made by removing all  
30 brush, flammable vegetation, or combustible growth that is  
31 located within 100 feet from the building or structure or to the  
32 property line or at a greater distance if required by state law, or  
33 local ordinance, rule, or regulation. This section does not prevent  
34 an insurance company that insures a building or structure from  
35 requiring the owner of the building or structure to maintain a  
36 firebreak of more than 100 feet around the building or structure.  
37 Grass and other vegetation located more than 30 feet from the  
38 building or structure and less than 18 inches in height above the  
39 ground may be maintained where necessary to stabilize the soil  
40 and prevent erosion.

1 (c) Remove that portion of any tree that extends within 10 feet  
2 of the outlet of a chimney or stovepipe.

3 (d) Maintain any tree adjacent to or overhanging a building  
4 free of dead or dying wood.

5 (e) Maintain the roof of a structure free of leaves, needles, or  
6 other dead vegetative growth.

7 (f) Provide and maintain at all times a *noncombustible,*  
8 *corrosion-resistant* screen with a mesh size no greater than  
9 *one-fourth inch covering the attic and subfloor vents, and over*  
10 *the outlet of every chimney or stovepipe that is attached to a*  
11 *fireplace, stove, or other device that burns any solid or liquid*  
12 *fuel. The screen shall be constructed of nonflammable material*  
13 *with openings of not more than one-half in size.*

14 (g) Prior to constructing a new building or structure or  
15 rebuilding a building or structure damaged by a fire in such an  
16 area, the construction or rebuilding of which requires a building  
17 permit, the owner shall obtain a certification from the local  
18 building official that the dwelling or structure, as proposed to be  
19 built, complies with all applicable state and local building  
20 standards, including those described in subdivision (b) of Section  
21 51189 of the Government Code, and shall provide a copy of the  
22 certification, upon request, to the insurer providing course of  
23 construction insurance coverage for the building or structure.  
24 Upon completion of the construction or rebuilding, the owner  
25 shall obtain from the local building official, a copy of the final  
26 inspection report that demonstrates that the dwelling or structure  
27 was constructed in compliance with all applicable state and local  
28 building standards, including those described in subdivision (b)  
29 of Section 51189 of the Government Code, and shall provide a  
30 copy of the report, upon request, to the property insurance carrier  
31 that insures the dwelling or structure.

32 (h) Except as provided in Section 18930 of the Health and  
33 Safety Code, the director may adopt regulations exempting  
34 structures with exteriors constructed entirely of nonflammable  
35 materials, or conditioned upon the contents and composition of  
36 same, he or she may vary the requirements respecting the  
37 removing or clearing away of flammable vegetation or other  
38 combustible growth with respect to the area surrounding those  
39 structures.

1 No exemption or variance shall apply unless and until the  
2 occupant thereof, or if there is not an occupant, the owner  
3 thereof, files with the department, in a form as the director shall  
4 prescribe, a written consent to the inspection of the interior and  
5 contents of the structure to ascertain whether this section and the  
6 regulations adopted under this section are complied with at all  
7 times.

8 (i) The director may authorize the removal of vegetation that is  
9 not consistent with the standards of this section. The director may  
10 prescribe a procedure for the removal of that vegetation and  
11 make the expense a lien upon the building, structure, or grounds,  
12 in the same manner that is applicable to a legislative body under  
13 Section 51186 of the Government Code.

14 (j) As used in this section, “person” means a private  
15 individual, organization, partnership, limited liability company,  
16 or corporation.

17 SEC. 3. No reimbursement is required by this act pursuant to  
18 Section 6 of Article XIII B of the California Constitution because  
19 the only costs that may be incurred by a local agency or school  
20 district will be incurred because this act creates a new crime or  
21 infraction, eliminates a crime or infraction, or changes the  
22 penalty for a crime or infraction, within the meaning of Section  
23 17556 of the Government Code, or changes the definition of a  
24 crime within the meaning of Section 6 of Article XIII B of the  
25 California Constitution.